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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,161	01/07/2002	Alain Azagury	AZAGURY6	1273
1444	7590	02/04/2005	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			ABEL JALIL, NEVEEN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/044,161	Applicant(s) AZAGURY ET AL.	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) 23-32 and 56-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 33-35 and 66-68 is/are rejected.
- 7) ☒ Claim(s) 4-22, 36-55 and 69-89 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remarks

1. The response to election/restriction filed on January 7, 2005 has been received and entered. Claims 23-32, and 56-65 have been withdrawn with traverse. Claims 1-22, 33-55, and 66-89 are pending for current examination.
2. Claims 23-32, and 56-65 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 22, 2004.
3. Applicant's election with traverse of Invention I in the reply filed on January 7, 2005 is acknowledged. The traversal is on the ground(s) that the claim merely recites the preferred additional steps. This is not found persuasive because although the applicant points out invention II is not implementable on its own, invention I is and indeed can stand alone. Invention II can be implement with a method distinct from invention I, it offers a distinct and in depth improvement to invention I and does not have to be implemented together. Multiple automatic moves as disclosed by invention II does not need to be implemented with every file installation in a file sharing system, and it can be done with different methods for example with one move, or manual administrative move, or blocking the move-back, all very distinct applications.

The requirement is still deemed proper and is therefore made FINAL.

4. Priority to U.S. provisional application filed on January 8, 2001 has been acknowledged and entered.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 33-35, and 66-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Lucas et al. (U.S. Patent No. 6,725,453 B1).

As to claims 1, 33, and 66, Lucas et al. discloses a method for deploying a computer application on a network, comprising the steps of:

installing an application on a local file system of an application server to define a locally installed application (See column 19, lines 49-67, also see column 20, lines 1-15); and

relocating said locally installed application onto a shared file system by the steps of (See column 15, lines 18-56):

identifying shareable files among files of said application, said shareable files being shareable among multiple instances of said application (See column 19, lines 1-37);

moving said shareable files from said locally installed application to said shared file system to define relocated files (See column 16, lines 13-49); and

establishing symbolic links on said application server that are directed to corresponding locations of said relocated files (See column 18, lines 66-67, also see column 19, lines 1-15).

As to claims 2, 34, and 67, Lucas et al. discloses wherein said step of relocating said locally installed application further comprises the steps of:

identifying instance read/write files among said files of said application (See column 17, lines 10-22, also see column 14, lines 25-35); and

establishing said instance read/write files in at least one subtree of said local file system (See column 2, lines 55-59).

As to claims 3, 35, and 68, Lucas et al. discloses further comprising the steps of:
initializing a cache in said application server (See column 23, lines 17-25, also see abstract); and

executing a configuration script following performance of said steps of installing an application and relocating said locally installed application (See column 14, lines 25-46).

Allowable Subject Matter

7. Claims 4-22, 36-55, and 69-89 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for allowable subject matter:

Pisello et al. (U.S. Patent No. 5,678,042) teaches a local backup execution program is installed in the local server computer for routinely making, or at least requesting, backups of various data files held in the local primary and secondary storage means.

9. The prior art of record (Lucas et al. -U.S. Patent No. 6,725,453 B1-and- Pisello et al. - U.S. Patent No. 5,678,042) do not disclose, teach, or suggest the claimed limitations of (in combination with all other features in the claim), first value SharedDir of said 4-tuple specifies a root directory in said shared file system; a second value LocalDir of said 4-tuple specifies a first subdirectory in said local file system; a third value policy of said 4-tuple specifies a file creation policy that applies to said local file system; and a fourth value script is a reference to a configuration script, as claimed in claims 4, 36, and 69.

Claims 5-22, 37-55, and 70-89 are objected to as allowable over the prior art made of record, because it is dependent from the objected to as allowable dependent claim 4, 36, and 69.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5: 30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2165

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
February 2, 2005


CHARLES RONES
PRIMARY EXAMINER